IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

ORDER
IN
S.B. Civil Second Appeal No.473/2004

Niranjan S/o Shri Mishri Lal & Another
...defendant-appellant
Versus
Ashok Kumar Sharma S/o Shri Chand Narain
...plaintiff-respondent

Date of Order ::: 10.11.2006

Present
Hon'ble Mr. Justice Narendra Kumar Jain

Shri Pradeep Choudhary, Advocate, with
Shri Rakesh Kumar, Counsel for appellants
Shri R.K. Mathur, Counsel for respondent
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By the Court:-

Heard learned counsel for the parties.

The plaintiff-respondent filed a suit for eviction in respect of rented shop on the ground of personal bona-fide necessity, default in making the payment of rent as well as material alteration. The lower court dismissed the suit. However, on an appeal filed by the plaintiff, the learned first appellate court decreed the suit on the ground of personal bona-fide necessity as well as material alteration in the rented property. So far as ground of default in making the payment of rent is concerned, the learned first appellate court gave the benefit of first default under Section 13 (6) of the Rajasthan Premises (Control of Rent & Eviction) Act, 1950.

I have considered the submissions of the learned counsel for both the parties in the light of the findings of the first appellate court.

The learned counsel for the appellants does not dispute that so far as the finding in respect of material alteration by the first appellate court is concerned, the same has not been challenged in the memo of appeal. It is clear that if a suit for eviction is decreed on one ground alone, then it is not necessary to discuss the other grounds of eviction. However, after considering the submissions of both the parties as well as the finding of the first appellate court, I find that the question of bona-fide necessity, in the facts and circumstances of the present case, is purely a question of fact and there is a finding of fact by the first appellate court, which cannot be interfered with by this court in second appeal under Section 100 of the C.P.C.

No substantial question of law is involved in this second appeal and the same is dismissed at admission stage itself with no order as to costs.

(Narendra Kumar Jain) J.

//Jaiman//